

STATE OF NORTH CAROLINA
COUNTY OF POLK

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
16 EHR 10496

TRYON EQUESTRIAN PARTNERS LLC,

Petitioner,
v.

N.C. DEPARTMENT OF ENVIRONMENTAL
QUALITY, DIVISION OF WATER
RESOURCES,

Respondent.

SETTLEMENT AGREEMENT

Petitioner Tryon Equestrian Partners LLC (“Petitioner”) and Respondent North Carolina Department of Environmental Quality (“NCDEQ”), Division of Water Resources (“DWR”) (“Respondent”) hereby enter into this Settlement Agreement (“Agreement”) in order to resolve a matter in controversy between them. This matter arose out of the issuance of a Civil Penalty Assessment in the amount of \$31,000.00 plus \$450.88 for enforcement costs (“CPA”) (attached hereto as Exhibit A). The CPA was for alleged violations of 15A NCAC 02B.0211(12), as described in the Findings and Decision document attached to the CPA.

Without any hearing of fact or law in the abovestyled matter, IT IS THEREFORE AGREED BY THE PARTIES THAT:

1. In order to avoid the cost and delay of further litigation, the parties have entered into this Agreement and have agreed that all parties have been correctly designated and that there is no question as to misjoinder or nonjoinder.
2. The Petitioner shall pay DWR \$24,800 plus \$450.88 in enforcement costs, an amount totaling \$25,250.88 ("Settlement Amount"), in full settlement of all violations described in the CPA. The Settlement Amount shall be made in a lump sum payment due within thirty (30) calendar days of the execution of this Agreement. The payment shall be made by check and made payable to the "North Carolina Department of Environmental Quality" and delivered to the following address:

*If sending via US Postal Service
etc.)*

Karen Higgins
DWR-401 & Buffer Permitting Branch
1617 Mail Service Center
Raleigh North Carolina 27699-1617

*If sending via delivery service (UPS, FedEx,
etc.)*

Karen Higgins
DWR-401 & Buffer Permitting Branch
512 N. Salisbury Street
Raleigh, NC 27604

3. Within fourteen (14) days of execution of this Agreement by the parties, the Petitioner shall file a notice of voluntary dismissal with prejudice of the Petitioner's Petition for Contested Case Hearing in the above captioned matter, 16 EHR 10496.
4. This agreement only addresses the civil penalties identified in the attached CPA and does not address in any way other penalties assessed by Divisions within NCDEQ, including penalties assessed by the Division of Energy, Mineral, and Land Resources. Furthermore, nothing in this Agreement shall restrict the right of DEQ, including DWR, to inspect or take enforcement action against Tryon Equestrian Partners LLC for any

other violations of the water quality statutes, the relevant rules promulgated thereunder, or any water quality permits or certificates held by Petitioner. Similarly, nothing in this Agreement shall restrict the right of the Petitioner to contest any other enforcement action.

5. It is understood and agreed that payments made or actions taken pursuant to the terms of this Agreement are not to be construed as an admission of liability by Petitioner, nor as an admission by the Respondent that the penalty was improperly issued, and that this Agreement is a compromise of disputed claims.
6. The Petitioner and Respondent agree that, for purposes of any future bankruptcy proceeding, this Agreement is not intended as, nor shall it be deemed to constitute, a novation of any claims asserted by the Respondent against the Petitioner. Petitioner further agrees that pursuant to 11 U.S.C. § 523 all sums payable to the Respondent pursuant to this Agreement are nondischargeable in bankruptcy. Nothing in this Agreement releases any nondischargeability claims that may be asserted by Respondent in any bankruptcy proceeding, and nothing in this Agreement shall be deemed a waiver of Respondent's right to rely on the nature of any claim or debt released in this Agreement to show that the claim or debt is nondischargeable.
7. The parties agree that the consideration for this settlement is the promises contained herein and that this Agreement contains the whole agreement between them.

represent and warrant that they are authorized to enter into this Agreement on behalf of the parties hereto. The Petitioner was represented by counsel, William Clarke of Roberts & Stevens, P.A..


RESPONDENT NORTH CAROLINA DEPARTMENT OF ENVIRONMENTAL QUALITY, DIVISION OF WATER RESOURCES



Karen Higgins
Supervisor
401 & Buffer Permitting Branch
Division of Water Resources
North Carolina Department of Environmental Quality

Executed this the 18 day of ~~April~~^{May}, 2017.

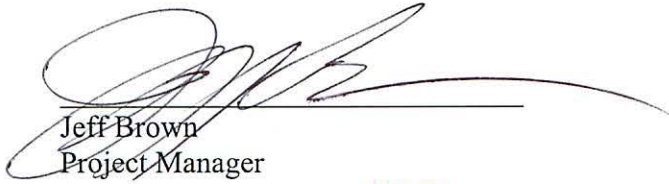
Approved by:



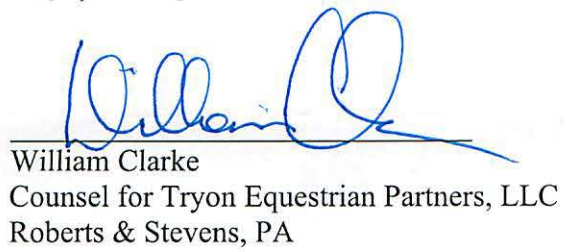
William F. Lane
General Counsel
North Carolina Department of Environmental Quality

This the 18th day of ~~April~~^{May}, 2017.

PETITIONER TRYON EQUESTRIAN PARTNERS LLC



Jeff Brown
Project Manager



William Clarke
Counsel for Tryon Equestrian Partners, LLC
Roberts & Stevens, PA